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OFFICE OF PETITIONS

Applicant: Pinza

Appl. No.: 10/586,865

International Filing Date: January 13, 2005

Title: IBOPAMINE MALEATE, METHOD FOR PREPARING IT AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT

Attorney Docket No.: 292919US0PCT

Pub. No.: 2008/02402724 A1

Pub. Date: October 2, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 12, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the benefit claim data to the Italian application is incorrect and the assignee's address is incomplete.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The error in the foreign priority claim on the front page of the publication wherein "MI2004A000146" is misprinted as "M12004A000146" may be an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

With respect to the assignee information, the complete address is not printed. Furthermore, an error in the assignment information is not considered a material mistake as required by 37 CFR 1.221(b). See MPEP 1130.

On June 23, 2008 a Filing Receipt was mailed by the Office, which listed the assignment information and the foreign priority information. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a corrected filing receipt prior to export of the publication to the publisher.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

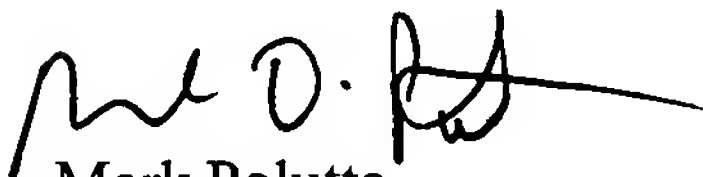
A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

<http://www.uspto.gov/ebc/portal/tutorials.htm>

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
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Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



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